



Indiana Judicial Nominating Commission
30 South Meridian Street
Suite 500
Indianapolis, IN 46204
(317) 232-4706

APPLICATION
FOR THE
COURT OF APPEALS OF INDIANA

Deadline – 12:00 p.m., April 27, 2015

The application for the August 2015 vacancy in the Second District of the Court of Appeals of Indiana includes two parts. Both Part One and Part Two must be completed. Part Two *must* be provided separately as directed in the instructions. Answers in Part One and Part Two are a matter of public record and will be supplied to the media and public upon request. However, only answers in Part One may be posted online by the Indiana Judicial Nominating Commission.

PART ONE, Sections 1 – 11

1. Contact/General Information

A. Full legal name and any former names.

Patricia Caress McMath

Patricia Maureen Milani Caress (maiden name)

B. State the full name (use initials for minor children), age, and relationship of each person residing in your household. For each adult living in the household (other than yourself), also state the person's occupation and employer.

1. Robert B. McMath, 54, husband, employed as a sales representative by the Lenox Division of Newell Rubbermaid
2. Patricia C. McMath, 53, applicant

3. Emily M. McMath, 19, daughter, currently employed as a Records Clerk for Jarrett Engineering but will be a full time student at Hanover College in August, 2015.
4. M.M., 17, daughter
5. E.M., 16, daughter
6. I.M., 14, son

C. Business address, email, and telephone number.

Marion County Public Defender Agency
Appellate Division
151 North Delaware Street, Suite 200
Indianapolis, Indiana 46204
patricia.mcmath@indy.gov
317.327.2869

D. Attorney number.

11921-49

E. Month and year you were admitted to the Indiana Bar.

October, 1987

- a. Indicate current law license status, i.e. active/inactive/retired.

Active

- b. If you are or have been a member of the Bar of any other state, identify the jurisdiction and provide date(s) of admission and current license status.

N/A

F. Date and place of birth.

December 27, 1961, Bloomington, Indiana

G. County of current residence and date you first became a resident.

Marion County, 1967

2. Secondary Education/Military Experience

- A. List all undergraduate colleges and universities you attended. Include the school name; dates enrolled; degree or certificate earned; and any academic honors, awards, or scholarships you received and when.

<u>School</u>	<u>Dates Enrolled</u>	<u>Degree or Certificate</u>
Marquette University	1980-1981	
Indiana University	1982-1984	B.S.

Academic Honors, Awards, Scholarships

Indiana State Scholarship -- 1980
Trinity Episcopal Church Scholarship -- 1980, 1981
Dean's List - Marquette University
Dean's list - Indiana University

- B. Include with your original application a certified transcript from each school named in Subsection 2A and attach copies of each transcript to each application copy. (If your social security number is on your transcripts, redact it *before* copying.) See Tab 2
- C. If applicable, list any military service. Include the name of the military branch; dates of service; last rank achieved; and any honors, awards, or commendations received and when. Attach a copy of your Certificate of Release or Discharge from active duty ("DD 214" paperwork).

N/A

3. Post-Secondary Education

- A. List all law schools, graduate schools, and post-J.D. programs attended. Include the school name; dates enrolled; degree or certificate earned; class rank; and any academic honors, awards, or scholarships you received and when.

<u>School</u>	<u>Dates Enrolled</u>	<u>Degree and Class Rank</u>
Maurer School of Law (Indiana University – Bloomington)	1984-1987	J.D.

Class ranks were not assigned in 1987.

Academic Honors, Awards, Scholarships

Maurer School of Law Fellowship - 1984, 1985, 1986

- B. Include with your original application a certified transcript from each school named in Subsection 3A and attach copies of each transcript to each application copy. (If your social security number is on your transcripts, redact it *before* copying.) See Tab 2

4. Employment

- A. Provide your employment history since graduation from college. Include name of employer, titles or positions, locations, and dates of employment.

November, 2010 to Present -- **Marion County Public Defender Agency**, Attorney, Appellate Division

August, 1996 to November, 2010 -- **Self-Employed Appellate Public Defender**, contracts with Marion County Public Defender Agency and State Public Defender of Indiana

1997 -- **Bar Review Materials Editor** for Kevin and Holly Betz, Indianapolis, IN

August, 1992 to May, 1999 -- **Adjunct Legal Writing Instructor**, Indiana University Robert H. McKinney School of Law

January 1991 to July 1996 -- **Judicial Law Clerk** for the Honorable Betty Barteau, Indiana Court of Appeals

October, 1989 to December 1990 -- **Associate Attorney**, Wooden McLaughlin & Sterner, Indianapolis, IN

July, 1987 to September, 1989 -- **Chief Judicial Law Clerk** for the Honorable Robert H. Staton (deceased), Indiana Court of Appeals

September, 1986- April, 1987 -- Part-time work IU School of Law - Bloomington Law Library

Summer, 1986 - Receptionist, Carpenter Better Homes Real Estate Office, Broad Ripple Branch, Indianapolis, IN

Summer, 1985 - Law Clerk to John Vargo, Indianapolis, IN

Summer, 1984 - Law Clerk to John Vargo, Indianapolis, IN

- B. If applicable, describe the nature and extent of your practice of law (present and former) and provide the names of your partners, associates, office mates, and employers.

Present Practice

Marion County Public Defender Agency, Appellate Division -- I represent indigent criminal defendants in misdemeanor through murder felony appeals, juveniles in delinquency appeals, parents in CHINS and TPR appeals, and respondents in involuntary commitment appeals. My responsibilities include thoroughly reviewing transcripts and court files to identify issues to raise on appeal; researching issues for appeal; drafting and submitting briefs and any necessary motions to the Indiana Court of Appeals and Indiana Supreme Court; and presenting oral arguments before the Indiana Court of Appeals and Indiana Supreme Court.

Immediate Supervisor: Ruth Johnson

Office mates: Michael Fisher, Deb Markisohn, Darren Bedwell, Victoria Bailey, Valerie Boots, Suzy St. John, Matt Anglemeyer, Ellen O'Connor

Former Practice

Self-Employed Appellate Public Defender – I had the same responsibilities as described.

I did occasional legal research and motions work for Tom Hastings, The Hastings Law Firm, Indianapolis, Indiana, 317-686-1000, which included drafting discovery documents, pre-trial motions, and summary judgment motions.

Associate Attorney, Wooden McLaughlin & Sterner --I drafted documentation and prepared for closing various real estate transactions and bank loans and handled various general business matters. I handled civil litigation matters, primarily collection - related, and some bankruptcy matters.

Immediate Supervisors: Dan Sterner, Ron Salatich, Daniel Trachtman, Thomas Dinwiddie, Barbara Wolenty, Dale Eikenberry, Doug King

Associates: Katherine Shelby, Cathy Alder, Richard Clark, Julie Michaelis, Thomas Hanahan, Kevin Tyra, Kent Broach, Erick Ponader,

Mary Titsworth, Martha Irwin, David Pesel, Joseph Heerens, Jeffrey McKean, Andie Cohen, Therese Fehribach

Court of Appeals Clerkship -- Clerking on the Court of Appeals for seven years for two judges was invaluable to my later practice of law as an appellate lawyer and contributes to making me uniquely qualified to sit on the Indiana Court of Appeals. My responsibilities on the Court of Appeals included civil and criminal law research and writing. I assisted the judges in analyzing legal issues of first impression and contributed substantially to drafting judicial opinions. I also assisted the judges in preparations for oral arguments and case discussions with the voting panel of judges. In addition, while clerking for Judge Barteau I drafted speeches for her presentations at law conferences.

Immediate Supervisors: The Honorable Robert H. Staton (deceased);
The Honorable Betty Barteau

Office mates: Kimberley Wheeler, Jane Noblitt, Jan Berg, Elizabeth Gamboa, Thomas Newby, William Polansky, David Henn, Scott DeVries

5. Trial/Judicial Experience

A. Describe the extent of your jury trial experience, if any.

I was the foreman on a jury for a criminal trial in 1994 or 1995. The case involved a D felony theft and the defendant was found guilty.

B. Describe the extent of your bench trial experience, if any.

I represented respondents in several involuntary commitment proceedings.

C. If applicable, describe the nature and extent of your judicial experience (including as a judge *pro tempore*). Include a description of your experience presiding over jury trials, if any.

N/A

6. Professional Experience

Include as writing samples, four selections (in total) from the written materials listed below in Subsections 6A – 6C. See Tab 3

- A. If applicable, list up to five trial or appellate briefs and/or judicial opinions you have written. Refer to them by caption, case number, and filing date.

Street v. State, 21A04-1410-CR-458, January 26, 2015

Worline v. State, 49A02-1312-CR-1041, June 12, 2014

T.R. v. Ind. Dep't of Child Services, 49A05-1306-JT-291, October 16, 2013

Berry v. State, 49A04-1008-CR-536, March 7, 2011

Young v. State, 49AS00-9701-CR-15, February 12, 1997

- B. If applicable, list up to five legislative drafts or court rules you have written or to which you contributed significantly. Refer to them by official citation, date, and subject matter.

N/A

- C. If applicable, list up to five of your contributions to legal journals or other legal publications. Provide titles, official citations, and a brief description of the subject matter.

N/A

- D. Identify the five most significant legal matters entrusted to you, whether as a judge or lawyer, and describe why you believe them to be so.

The nature of my practice as a public defender is such that most matters that have been entrusted to me are very significant because they involve a person's liberty or a persons' right to raise their children. For most of my clients, the matter entrusted to me is the most significant thing happening in their life. When I look back at my life as a lawyer, what stands out as the most significant matters to me are certain types of legal matters I have handled.

1. I have handled two appeals for clients convicted of murder and sentenced to life without parole. Dunlop v. State, 724 N.E.2d 592 (Ind. 2000); Gross v. State, 769 N.E.2d 1136 (Ind. 2002). The very nature of the punishment makes these cases significant. In a life without parole case, the facts of the murder are generally especially horrendous and one must remain sensitive to the victim and the victim's family. Yet,

for defense counsel in a life without parole case, the story becomes the client and how the client got to that point in his life that he murdered someone. Telling the clients' stories to the appellate court with a combination of zeal and sensitivity, with respect to both the clients and the victims, was a significant responsibility.

2. Many of the mental health involuntary commitment cases I handled were significant because an improper involuntary commitment forces treatment on a person that the person may not need or want. One of the more significant ones I handled involved a young man who was under the care of a private psychiatrist for mental health issues. His family took him to the hospital because he was having a mental health crisis. The hospital filed a petition for an involuntary commitment because the young man and his family did not agree with the treatment plan the hospital wanted to implement. The young man and his family wanted to continue under the treatment plan of his private psychiatrist instead. Ultimately the probate court denied the petition for involuntary commitment, recognizing that it was not necessary because the young man, with the help of his family, was getting treatment for his mental illness.

3. Many of the termination of parental rights cases I have handled were significant because the parent I was representing did not want to lose his or her rights to the child and yet struggled to prove he or she was capable of taking care of the child. Representing the parent who loves the child and does not want to lose the child and is facing termination of that right is a profound responsibility. The right to raise our children is one of our fundamental rights and many times in these cases the issue is whether the State is attempting terminate rights without according the parent the due process of law to which the parent is entitled, given the importance of the fundamental right to raise your child. In Lawson v. Marion County Office of Family & Children, 835 N.E.2d 577 (Ind. Ct. App. 2005), I successfully argued a father was entitled to new termination hearing because he was denied due process of law.

4. The ten appeals I have handled where I have been called in to the Court of Appeals or the Supreme Court for oral argument are significant because of the opportunity to literally speak for the client and to engage in conversation with the judges about a case. Whether I am arguing about the application of the law to my client, or what the applicable law should be, an oral argument indicates something out of the ordinary about the case and gives both me and the judges the opportunity to focus on the critical aspects of my client's story.

Specifically, in Childress/Carroll v. State, 848 N.E.2d 1073 (Ind. 2006), I had the opportunity to successfully argue that pleading guilty should not waive review of the sentence imposed as long as the sentence imposed was not agreed upon in the plea agreement and the trial judge retained some discretion in sentencing. This was a significant case due to the sheer volume of guilty pleas.

5. Other cases that stand out as significant are those in which I successfully argued a conviction should be reversed, either because the evidence presented did not establish the elements of a crime, the person's constitutional rights were violated in securing evidence against him, or the person did not receive a fair trial. In Ammons v. State, 770 N.E.2d 927 (Ind. Ct. App. 2002) and Woodson v. State, 49A05-1106-CR-306 (Ind. Ct. App., decided January 6, 2001), convictions were reversed because police officers performed illegal searches. In Perry v. State, 956 N.E.2d 41 (Ind. Ct. App. 2011), prejudicial evidence of other bad conduct that was not relevant to the case was presented to the jury. In Honeycutt v. State, 760 N.E.2d 648 (Ind. Ct. App. 2001), the evidence presented did not establish that my client had left the scene of an accident. These cases are significant because they illustrate the foundations of our criminal justice system: proving all elements of a crime beyond a reasonable doubt with evidence obtained in accordance with what is constitutionally permissible and presented in a fair trial.

7. Efforts to Improve the Legal System, Administration of Justice, or Society

- A. Describe your efforts, achievements, or contributions (including written work, speeches, or presentations) toward the improvement of the law, the legal system, or the administration of justice.

While serving on the Executive Council of the Indianapolis Bar Association's Young Lawyers Division I organized several CLE programs targeting young lawyers. I also presented at some of the programs, speaking primarily on appellate advocacy and the Court of Appeals.

More recently, I have participated in the following CLE programs:

2015 -- Lecturer, Marion County Public Defender Agency, Crawford
Confrontation Issues Seminar

2014 -- Panel Member, Indybar Appellate Practice Section, Audio-Visual
Transcript Pilot Program CLE

2014 -- Lecturer, Indiana Public Defender Council, Mental Health Law Seminar
2012 -- Lecturer, Indiana Public Defender Council, Annual Appellate Update Seminar
2011 -- Lecturer, Marion County Public Defender Agency, No Fault CHINS and Termination of Parental Rights Seminar
2008 -- Lecturer, Indiana Public Defender Council, CHINS and Termination of Parental Rights Seminar

In addition to presenting at CLEs, as a member of the Indianapolis Bar Association's Standing Committee on Professionalism I have helped establish a resource for CLE presentations on civility in the legal profession and we are currently designing a mentor program to roll out this fall.

As a member of the Indianapolis Bar Foundation's Impact Fund Committee I have been involved in awarding \$35,000 grants to organizations providing legal education and legal services to central Indiana.

- B. Describe your efforts, achievements, or contributions (including written work, speeches, or presentations) concerning civic, political, or social issues.

I am a member of the advisory group appointed by the chair of Indianapolis Bar Association's Justice Center Task Force, participating in discussions with the City of Indianapolis regarding the current efforts to build a new criminal justice center.

I was a repeating participant in the Indianapolis Bar Association's Gold E. Locks program. Lawyers go into the classroom to show a video of a mock trial and then lead an interactive discussion with the students about our justice system's right to a jury trial.

I was a judge for The American Legion Oratorical Contest for high school students. Students presented original speeches on a selected topic from the Constitution, with some emphasis on the duties and obligations of citizens to our government.

I have participated in the Indiana State Bar Association's "Why Lincoln Was a Lawyer" program. Lawyers go into the classroom in February to talk about Lincoln's life, his career as a lawyer, and his impact on the nation.

I have volunteered at our children's school for the "Everybody Counts" program which is designed to enhance the students understanding of the special needs of some students.

- C. Describe your efforts, achievements, or contributions (including written work, speeches, or presentations) to improve your local, state, or national community through charitable work or public service.

Through outreach programs at my church I have been involved in feeding ministries and collection drives for Dayspring Shelter, Mid-North Food Pantry and Gleaners Food Bank.

As a member of my church's governing body, I was involved with decisions to support the Neighborhood Christian Legal Clinic and Project Home Indy, a home for teen mothers, as outreach ministry projects of my church.

I assisted my daughter with her Girl Scout Silver Award project to create a butterfly garden for the residents at Project Home Indy.

I was directly involved in establishing the Indianapolis Bar Association's annual collection drive for Teachers Treasures, an organization providing resources for teachers to provide needed supplies to under privileged students.

- D. Describe the nature and extent of any *pro bono* legal services you have contributed.

Participation in the Indianapolis Bar Association's Legal Line and Ask a Lawyer programs have been the extent of my *pro bono* legal services.

- E. Indicate your experience teaching law. Provide the dates, names of institutions or programs, and a description of the subject matter taught.

From 1992 through 1999, I taught Legal Writing I and II to first year law students as an adjunct instructor at Indiana University Robert H. McKinney School of Law. The emphasis of the class was on writing legal memoranda and appellate advocacy. Oral arguments were held on the student's appellate brief. I taught students to identify and formulate issues, identify applicable rules of law from statutes and common law, and structure a coherent analysis of the issues. In 1999, I was selected by the faculty's Executive Committee to receive a Teaching Excellence Recognition Award.

In 2013 and 2014 I was a Supervising Attorney for students in the Appellate Clinic at IU Robert H. McKinney School of Law. I supervised three students each year as they represented a criminal defendant throughout an appeal.

8. Memberships and Other Activities

- A. List any memberships and offices you have held in professional organizations, including dates and descriptions of the purposes of the organizations and of your involvement.

Indianapolis Bar Association, Board Member, 2015

Indianapolis Bar Association, Standing Committee on Professionalism, 2013, 2014 (Chair), 2015

Indianapolis Bar Foundation, Impact Fund Committee, 2013, 2014, 2015

Master Distinguished Fellow, Indianapolis Bar Foundation, inducted 1996

Current Member, Indiana Public Defender Council, since 1996

Indianapolis Bar Association Young Lawyers Division Executive Council, 1991 - 1993; Young Lawyers Division Chair, 1993

Past Member, Indiana State Bar Association, 1987 - mid 1990's

Past Member, American Bar Association, 1987 - mid 1990's

Currently, I am actively involved in the Indianapolis Bar Association (IndyBar) as a Board member and through committee work on the Standing Committee on Professionalism. This committee seeks to improve the public image of lawyers through fostering civility in the practice of law and through educating lawyers on good client relation practices. The Professionalism Committee received the IndyBar President's Award in 2013 for the accomplishments of the Teachers Treasures collection drive.

As a member of the Impact Fund Committee of the Indianapolis Bar Foundation, the IndyBar fundraising organization, I am involved with soliciting and reviewing grant applicants for the Foundation's annual \$35,000 impact fund grant. This grant is awarded to a non-profit organization providing legal related services or education in central Indiana.

I was actively involved in the Indianapolis Bar Association during my time on the Young Lawyer's Division Executive Council and for several years following that service. As an Executive Council member and Chair, I helped organize Legal Line, a bi-monthly program where

the public can call in for legal advice, and establish it as a mainstay of public services offered by the Bar Association. The Legal Line program was submitted to the American Bar Association's Awards of Achievement and received a Second Place Award for Service to the Public Programs. I also organized several CLE programs targeting young lawyers and the issues they face starting their legal careers.

As an Indianapolis Bar Association member, I also actively participated in the annual Gold E. Locks presentations, where lawyers would go into elementary class rooms around the city, show a video depicting Goldilocks on trial for burglary, and lead student deliberations to reach a verdict.

I served on the Indianapolis Bar Association's Task Force on Pro Bono Civil Matters, which received the President's Award in 1999.

I participated as a mentor in the Mentoring Program jointly sponsored by the Women and the Law Division of the Indianapolis Bar Association and the Women in the Law Committee of the Indiana State Bar Association.

- B. List any memberships and offices you have held in civic or charitable organizations, including dates and descriptions of the purposes of the organizations and of your involvement.

Member, Trinity Episcopal Church, Vestry Member 2006-2009, Junior Warden 2007-2008 (together with Senior Warden acted as counsel to the Rector); Rector Search Committee Member 2015; Past Sunday School Teacher. The Vestry is the governing board of Trinity Episcopal Church. Congregation members elected me to the Vestry. During my three-year term I served as Junior Warden for year, acting as an advisor to the Rector. Vestry members elected me Junior Warden. The Rector asked me to then serve as Senior Warden, but other commitments prevented me from being able to serve in that capacity. The Search Committee has been tasked with calling a new Rector to lead our parish.

Girl Scouts of Central Indiana, Assistant Troop Leader, 2002-2005

- C. List any memberships you hold in social clubs or organizations. If any restrict its membership on the basis of race, sex, religion, or national origin,

please describe your efforts within the organization to eliminate restrictions.

N/A

D. Describe your hobbies and other leisure activities.

I trained for and completed three mini marathons a few years ago, but now get my regular exercise walking our two dogs. Much of my leisure activities are in support of our children's many activities in sports, music, theatre, speech teams and dance. As a family we enjoy hiking in the woods, exploring Indiana, playing board games and watching movies. When I actually find myself with a little time to call my own, I like to read novels.

9. Legal Proceedings

- A. List any lawsuits or legal proceedings in any jurisdiction, including but not limited to bankruptcies, dissolutions, and criminal matters to which you have been a party. Provide dates, case numbers, courts, names of other parties, and, if needed, a brief explanation. (If minor children are involved [i.e. an adoption], use initials only.)

The only lawsuit was a small claims case my husband and I filed in 1995 or 1996 in Marion County against a dry cleaners for damage to a pair of pants. I no longer have the paperwork and I do not remember the name of the cleaners.

- B. If you ever have been arrested or cited for any violation of the law other than for routine traffic violations, provide dates, jurisdictions, and an explanation of the event and its resolution.

N/A

- C. If you have been disciplined or cautioned, formally or informally, by the Indiana Supreme Court Disciplinary Commission, by the Indiana Commission on Judicial Qualifications, by the Indiana Supreme Court, or by similar entities in any other jurisdiction, identify each instance by date, case number (if applicable), and describe the circumstances and the nature of the outcome or resolution.

N/A

- D. If you have any outstanding federal, state, or local tax obligations, please itemize and explain.

N/A

10. References

- A. Provide the names of three attorneys who have been your professional adversaries in your practice or who have litigated substantial cases in your court and who would be in positions to comment on your qualifications for appointment to the Court of Appeals of Indiana (contact information to be included in Part Two of this application).

James Martin, Ellen Meilaender, Cynthia Ploughe

- B. Provide the names of three professional references other than those listed in Subsection 10A (contact information to be included in Part Two of this application).

Robert Hill, Ann Sutton, Ruth Johnson

- C. Provide the names of three personal references other than those listed in Subsection 10A or 10B (contact information to be included in Part Two of this application).

Cindy Shamo, Julia Maloney, Kim Laurin

11. State Police Release Form and Photograph

- A. Complete a State Police release form printed on green paper (you may obtain the release form by contacting the Nominating Commission Office at 317-232-4706). Include the release form with the original application only and not with the copies. See Tab 1
- B. Attach a recent photograph of you to the front of the original application and to each copy of your application. (This allows the Commission members to put a face with a name if you are interviewed in person.)

April 27, 2015
DATE

APPLICANT'S SIGNATURE

Patricia Caress McMath
PRINTED NAME

